

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Board of Trustees of the Sheet Metal
Workers, et al.,

Plaintiffs,

v.

Climate Industrial Engineering, Inc.,

Defendant(s).

No. C 04-0231 SBA (WDB)

ORDER REQUIRING SUBMISSION
OF BRIEFS REGARDING
DEFENDANT'S CLAIM OF
EXEMPTION

This case has been referred to the undersigned Magistrate Judge for a Report and Recommendation regarding defendant's Claim of Exemption.¹ **By August 16, 2005**, the parties must submit briefs addressing the following issues:

1. **All parties** must address whether and pursuant to what authority this federal court has jurisdiction to rule on defendant's claim of exemption.

2. If federal jurisdiction exists, we will address the validity of defendant's claim of exemption. We presume that defendant, as the party claiming an exemption, has the burden of persuading this Court that the claimed exemption applies.

Unsupported citations to statutes are **not** sufficient to meet defendant's burden of persuasion. Defendant **must** (i) identify the pertinent legal principles, quoting in full the

¹ The Order of Referral was received by my chambers on July 18, 2005.

1 statutes and other legal authority on which it relies, (ii) describe all facts to which it claims
2 the pertinent legal principles apply, and (iii) submit evidence of those facts. To the extent
3 that the submitted evidence consists of declarations, those declarations must be based on
4 personal knowledge and signed under penalty of perjury.

5 3. After reviewing the above submissions, the Court will decide whether further
6 briefing, oral argument, or an evidentiary hearing is necessary.

7 4. **Plaintiffs are directed to immediately serve a copy of this Order on defendant.**

8 IT IS SO ORDERED.

9 Dated: August 1, 2005

/s/ Wayne D. Brazil
WAYNE D. BRAZIL
United States Magistrate Judge

11 Copies to:

12 Plaintiffs with direction to serve defendant,
13 WDB, SBA
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